THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.4034 of 2006

Dated: 04th September, 2006

Between:

Mohd. Zaheeruddin. **…..PETITIONER**

AND

The Regional Manager, APSRTC,
Hyderabad City Region, JBS, Picket,
SECUNDERABAD & another. **….RESPONDENTS**

THE HONOURABLE SRI JUSTICE
N.V.RAMANA

W.P.No.4034 of 2006

ORDER:

The petitioner is questioning the proceedings No.PA/20(168)/2002-HCR, dated 8-9-2003 issued by the 1st respondent imposing the punishment of deferment of his annual increment for a period of two years with cumulative effect treating the period from date of removal to the date of reporting to duty as not on duty for all purposes and consequently seeks a direction to the respondents to declare the same as bad, illegal and disproportionate.

The petitioner is a Conductor in the respondent Corporation and while working as such he was served with a charge sheet dated 1-4-2002 alleging cash and ticket irregularities. The petitioner denying the allegations gave explanation, but without considering his explanation, the 2nd respondent after conducting an enquiry issued the proceedings dated 13-3-2003 removing the petitioner from service. The appeal preferred by the petitioner against the proceedings of the 2nd respondent was rejected by the Divisional Manager, Charminar vide his proceedings dated 09-07-2003. Therefore, the petitioner against the order of removal

preferred a review before the 1st respondent, and the 1st respondent by his proceedings dated 8-9-2003 ordered reinstatement of the petitioner into service duly deferring the annual increment for a period of two years with cumulative effect treating the period from date of removal to the date of reporting to duty as not on duty for all purposes, which is the subject matter of the writ petition.

The learned counsel for the petitioner submitted that the petitioner has not committed the alleged irregularity inasmuch as when the alleged passenger who boarded the bus was informed that the bus will not go to Dar-ul-salam and was told to get down at Gandhi Bhavan by purchasing the minimum ticket of Rs.2-50 ps, and that before purchasing the ticket, the check took place and the petitioner was booked. The learned counsel further submitted that even if the charge is proved the punishment imposed is disproportionate to the misconduct committed. The learned counsel therefore prayed that the writ petition be allowed and the impugned order be set aside.

On the other hand, the learned Standing Counsel for respondents-APSRTC submitted that the petitioner being a Conductor, is required to follow the rule of "issue and start", and he cannot contend that he could not issue the ticket to the alleged passenger as the passenger has boarded the wrong bus and that he has advised the passenger to get down at some point by paying the minimum charge, and during that process the check took place and he was booked. He submitted that the authority has passed the impugned order based on the entire evidence placed before it and there is no error or irregularity in the order, and prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner as also the learned Standing Counsel for the Corporation and perused the impugned order.

The impugned order dated 8-9-2003 of the 1st respondent/Regional Manager would disclose that the petitioner having acknowledged the receipt of the show cause notice on 4-2-2003 issued by the 2nd respondent did not even reply. Admittedly, the petitioner was found guilty of the charge of cash and ticket irregularities after a detailed enquiry, which is serious in nature. The imposition of punishment of deferment of increment for a period of 2 years with cumulative effect treating the period from date of removal to the date of reporting to duty as not on duty for all purposes cannot be said to be disproportionate to the misconduct with which the petitioner was found guilty.

The apex court in **V. Ramana v. APSRTC** [1] held that the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision for that of the administrator and that the scope of judicial review is limited to the deficiency in decision making process and not the decision, and that unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court, there is no scope for interference. In that view of the matter, I am of the considered opinion, that it is not a fit case where the administrator's decision warrants interference.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

(N.V. RAMANA, J.)

Date:04th September, 2006.

GRK

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[1] (2005) 7 SCC 338